

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAILYPAY, INC., a Delaware Corporation; NEVADANS FOR FINANCIAL CHOICE, a Nevada Political Action Committee; CHRISTINA BAUER, an individual,

Appellants,

vs.

FRANCISCO V. AGUILAR, in his official capacity as Nevada Secretary of State; KATE FELDMAN, an individual; STOP PREDATORY LENDING NV, a Nevada nonprofit corporation,

Respondents.

Case No.: 88557

District Case No.: Electronically Filed
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Elizabeth A. Brown
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Consolidated with:

Case No.: 24 OC 00021 1B

Case No.: 24 OC 00023 1B

Case No.: 24 OC 00029 1B

**APPELLANT DAILYPAY, INC.'S LIMITED NON-OPPOSITION
TO MOTION FOR SUMMARY REVERSAL**

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Pursuant to NRAP 26.1, the undersigned counsel of record certifies that there are no persons or entities as described in NRAP 26.1(a) that must be disclosed.

The following law firm has appeared and/or is expected to appear in this Court on behalf of Appellants:

Matthew Morris, Esq., and J. Malcolm DeVoy, Esq., of Holland & Hart LLP.

DATED this 7th day of June 2024.

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I. INTRODUCTION

On May 29, 2024, Appellants Nevadans for Financial Choice and Christina Bauer filed a Motion for Summary Reversal or, in the alternative, a Motion for Vacatur. To the extent that granting the Motion will result in the legally correct outcome, DailyPay does not oppose the Motion. The challenged Petition, as drafted, cannot be circulated in light of its errors referencing NRS Chapter 604D. NRS 295.015(2) requires the Petition proponents to correct, amend, and re-file their Petition.

II. ARGUMENT

“[W]hen legislation expressly provides a particular remedy or remedies, courts should not expand the coverage to subsume other remedies.” *Chavez v. Sievers*, 118 Nev. 288, 294 n. 10, 43 P.3d 1022, 1026 n.10 (2022) (quoting *Passenger Corp. v. Passengers Assn.*, 414 U.S. 453 (1974)). Thus, “if a statute expressly provides a remedy, courts should be cautious in reading other remedies into the statute.” *Repub. Atty’s. Gen’l. v. Las Vegas Metropolitan Police Dep’t.*, 136 Nev. 28, 31, 458 P.3d 328, 332 (2020) (quoting *Builders Ass’n of N. Nev. v. City of Reno*, 105 Nev. 368, 370, 776 P.2d 1234, 1235 (1989)).

Here, NRS 295.015(2) mandates the appropriate remedy where an initiative Petition contains errors and presents inaccurate information to voters—the Petition must be corrected, revised, and re-filed by the individual designated to amend or withdraw the Petition.

First, “before a petition for initiative or referendum may be presented to the registered voters for their signatures, the person who intends to circulate the petition must. . . submit. . . the names of not more than three persons who are authorized to withdraw the petition or submit an amended petition.” NRS 295.015(1)(b)(3). The challenged Petition designates Kate Feldman as the person who is authorized to “withdraw or amend the petition.” 1 AA 120.¹

Second, “if a petition for initiative or referendum, or the description of the effect of the initiative or referendum...is amended after the petition is placed on file with the Secretary of State pursuant to [NRS 295.015(1)], the revised petition must be placed on file with the Secretary of State before it is presented to the registered voters for their signatures.” NRS 295.015(2)(a).

¹ Citations to “AA” reference the Appellants’ Appendix filed in Docket No. 88526.

The challenged Petition includes several errors that warrant revision before the Petition is circulated. At Section 1, the Petition erroneously states it will add “a new Chapter, to be designated Chapter 604D,” to the Nevada Revised Statutes. 1 AA 121. At Section 16, the Petition erroneously states that it will amend NRS 99.050, such that “parties cannot agree to any arrangement that violates the requirements of Chapter 604D of the Nevada Revised Statutes.” 1 AA 126-27. Neither of the Petition’s references to NRS Chapter 604D can be correct, given the codification of S.B. 290 as NRS Chapter 604D. These errors are not merely cosmetic, they alter the sense and meaning of the Petition.

To permit the Petition to be circulated in spite of its inaccuracies effectuates a disservice to Nevada voters and undermines the initiative process. The statutory remedy in this scenario is for the Petition’s designated proponents to revise and re-file it. To conclude otherwise renders NRS 295.015(2) meaningless. *So. Nev. Homebuilders Ass’n. v. Clark Cty.*, 121 Nev. 446, 117 P.3d 171 (2005) (this Court will interpret a statute in a way that would not render any words or phrases superfluous or nugatory); *Cegavske v. Hollowood*, 138 Nev. Adv. Op. 46, 512 P.3d 284, 289 (2022) (declining to “interfere with the Legislature’s broad power to

enact statutes” that “implicate the Legislature’s power to enact facilitating procedural laws” under NRS Chapter 295.

III. CONCLUSION

The Legislature has enacted the procedural remedy for correcting a Petition that otherwise requires voters to make a decision based on inaccurate, incomplete, or erroneous information. The Petition circulators should not compel another party, be it the Legislative Counsel Bureau or this Court, to correct the errors in their Petition. Nor should this Court be forced to decide how serious the Petition’s clear errors and inaccuracies are. The circulators are responsible for the content of their Petition and have designated an individual to re-file an amended petition. NRS 295.015 requires as much.

DATED this 7th day of June 2024.

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CERTIFICATE OF SERVICE

Pursuant to NRAP 25(1)(b) and 25(1)(d), I, the undersigned, hereby certify that I electronically filed the foregoing **LIMITED NON-OPPOSITION TO MOTION FOR SUMMARY REVERSAL** with the Clerk of Court for the Supreme Court of Nevada by using the Supreme Court of Nevada's E-filing system on the 7th day of June 2024.

I further certify that all participants in this case are registered with the Supreme Court of Nevada's E-filing system, and that service has been accomplished to the following individuals through the Court's E-filing System or by first class United States mail, postage prepaid, at Las Vegas, Nevada as follows:

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